

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD LAWSON,

Plaintiff,

v.

Civil Case No. 11-11163
Honorable Patrick J. Duggan

COUNTY OF WAYNE, GARRY GRAY,
ROBERT K. COSTELLO, MARYLIN E.
ATKINS, PENNIE B. MILLENDER,
ANNETTE J. BERRY, KYM L. WORTHY,
ROBERT A. MORAN, and PATRICK
M. MUSCAT,

Defendants.

**OPINION AND ORDER DISMISSING ACTION PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 25(a)**

Plaintiff Richard Lawson was a Michigan Department of Corrections' prisoner when he filed this *pro se* action against Defendants on March 22, 2011. Plaintiff passed away on September 8, 2012. (*See* ECF No. 47.) No motion for substitution has been made within the time period set forth in Federal Rule of Civil Procedure 25(a).

Therefore, the Court is dismissing this action.

On October 19, 2012, Defendant Garry Gray filed a "Suggestion of Death" on the docket which indicated that Plaintiff passed away on September 8, 2012. (ECF No. 47.) Federal Rule of Civil Procedure 25(a) sets forth the procedure to be followed when a party dies during the proceedings, stating that the action must be dismissed if a motion for substitution is not made by any party or the decedent's successor or representative within

90 days after service of a statement noting the death. In an opinion and order issued October 23, 2012, this Court held that Defendant Gray's filing of the Suggestion of Death did not trigger the start of the 90-day period and that Rule 25(a) required that his counsel first make a good faith effort to identify and serve Plaintiff's successor or representative. (ECF No. 48.)

On January 7, 2013, Defendant Gray's counsel filed a document indicating that, while Plaintiff did not identify a next of kin before his death, an individual had been identified who may be the executor of Plaintiff's estate. (ECF No. 49.) Defense counsel also indicated that the Suggestion of Death and a copy of this Court's October 23, 2012 decision had been sent to this individual on January 7, 2013. (*Id.*) No motion for substitution has been filed as of today's date, which is more than 90-days after service of the statement noting Plaintiff's death.

Accordingly,

IT IS ORDERED, ADJUDGED, AND DECREED, that Plaintiff's Complaint is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 25.

Dated: April 17, 2013

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Michael E. Fisher, Esq.
AAG Joseph T. Froehlich
AAG Mark E. Donnelly